

the *pendente lite* support had acquired a job three months after the amount was set. I have not had any income since November of 2015 (my commission-based jobs have left me with debt because I could not function properly due to the concussions), I lost my job in the Spring of 2016, and Judge Dawson nonetheless asserted that I had not demonstrated a substantial change in circumstances. My loss of income, which pre-dated the loss of employment, is a substantial change in circumstances according to the very precedent Judge Dawson cited. The precedent she cited in denial of my motion supports the very same motion. No impartial person could say that my circumstances had not changed based on the evidence that I presented.

44. Judge Dawson cited *Matter of Baltes v Smith* 11 AD3d 1072, 1073 [3rd Dept. 2013] (Amendment to Family Court Act 451) in this decision to deny *pendente lite* support reduction. I have committed no crimes against my wife, who receives the *pendente lite* support, nor have I been convicted (only accused) of violating orders of protection. Even in the plea deal that the Assistant District Attorney has on the table now, the felony charges would be dismissed. So, I am not a felon, I did not commit any felony-level offense, the District Attorney's office does not even want to indict. These felony charges were brought in April of 2016, caused me to lose my job only indirectly as a result of the New York bureaucracy in tandem with my wife's and Ms. Zuccardy's vindictiveness, and I deny the allegations regardless. How is a precedent involving an incarcerated, convicted criminal applicable to my situation, where I am being victimized by paranoia and vindictiveness?

45. Is an accused criminal supposed to be treated the same way that a convicted criminal is treated? Based on her remarks and decisions, many of which are detailed in my Commission on Judicial Conduct Complaint, Judge Dawson believes that my wife's repeated yet

untried allegations (none of which involved violence, danger, or threats of violence) mean that I am a violent criminal. The Manhattan County Detention Center treats accused criminals worse than federal inmates. The men on Riker's Island (I was there for a month in 2016 before my parents were lent money by the head of East Brunswick's Office of Emergency Management to afford the exorbitant bail) long to go upstate to federal prisons. New York State is committing a plethora of human rights violations in both the court system and the criminal detention system¹⁷.

46. I have trouble even attending my divorce hearings without panicking on the commute. Multiple times my wife has manufactured allegations, multiple times I have had to endure traumatic jail stays as a result and backtrack in my post-concussion recovery (there is no treatment available for my disorder in New York State detention centers), the Assistant District Attorney has threatened to request remand if I do not plead "Guilty," I have committed no crimes whatsoever, I am already anxious about being arrested at my hearing to request restoration of visits with my daughter tomorrow (December 5, 2016) on made up allegations, there is no horizon to these proceedings in sight, AND I am not a perpetrator but a domestic violence victim who is supposed to be protected by the IDVC.

¹⁷ Bill Moyers' documentary *Rikers* details the systematization of the human rights abuse that takes place on Rikers Island. As an aside, I did not know there was only a 30 day time window to appeal the decision on denial of the *pendente lite* support reduction motion. Furthermore, I found out about it on July 8, 2016 and then spent 27 detained in the Manhattan detention center and on Rikers Island beginning on July 14, 2016. At Rikers Island, I did not have any writing implements except for the occasions when the law library had enough to give me one. Furthermore, use of the law library was restricted to one hour a day nominally, but many days I was not able to go there for reasons including jail lockdowns and unavailability of escorts. The search system is esoteric and obscure on the computer terminals (sometimes there were not enough computers for everyone) and the assistants in the law library were generally unavailable (there being an insufficient number). Only after my release did I learn from my family attorney that the time window for appeal had closed.

47. I worry constantly about my daughter's cognitive, emotional, and psychological development. I never hurt her nor would I ever hurt her. She means the world to me, and the IDVC has denied me the right to see her for over eight months now. The bureaucratic machine of the New York State Court and correctional system is malfunctioning, it is not being properly maintained, and it is brutalizing the people it supposed to protect. Please help me. I am genuinely scared for my life and freedom. The irrationality of these proceedings is a Kafkaesque nightmare labyrinth, and the only escape from the labyrinth that I see is federal court intervention.

48. According to the New York State government website, only one-fourth of domestic violence complaints are against men. Do I deserve to be discriminated against because I am a man who was beaten by his wife, critical reports have been generated based on the symptoms that are borne of post-concussion disorder, and I am functionally disabled? Judge Dawson, my wife, Ms. Zuccardy, and the facilitating New York State court system have violated the Americans with Disabilities Act. Ms. Zuccardy has privately and publicly insulted the neurological impairments that resulted from my wife beating me over the head.

49. I do not actually know if my motor skills will return to the level they functioned at before my wife beat me over the head. Ms. Zuccardy and my wife have stated that they want to prevent my recovery by incarcerating me, the Assistant District Attorney has been pressured by his boss and Ms. Zuccardy to insist on my incarceration, and meanwhile I am having flashbacks to and nightmares about my wife knocking me unconscious.

50. Judge Dawson has, presumably, read the transcripts verifying that my wife punched me in the face and beat me over head. I have never punched anyone in my life.

51. While relatively minor and disregarded, I have not been allowed to see my beloved dog, the beagle Emma, since July of 2015. I raised Emma and we share the unique love that can only exist between a dog and her owner. Ms. Zuccardy has refused to discuss my spending time with Emma. I miss Emma with a heartbrokenness that is second only to how much I miss my beloved daughter.

52. I learned to love language from babbling with my father when I was at toddler. My daughter has not had the opportunity to babble with her father for the past eight months. She just recently turned two years old.

53. Can you imagine having your relationship with your pet suspended for a year for no clear reason? Can you imagine having your relationship with your child suspended for almost a year for no clear reason? I know that my daughter would have been better off if she and I had spent time together over the past eight months. Instead, the IDVC decided that my daughter and I should not see each other.

54. There is no rationale for preventing my daughter and I from seeing each other, I am genuinely worried about my daughter's psychological well-being because the IDVC has prevented us from seeing each other, and I worry about her health and safety the way every parent worries. In no way whatsoever can preventing my daughter from seeing me be said to be in my daughter's best interests. I love my daughter, I have never hurt my daughter, I would never hurt my daughter, and I simply want to be a positive fatherly presence in her life.

55. More than anything, I want to have a relationship with my daughter, and I believe that she would like to have a relationship with her father. I used to take my daughter to parks to play, I used to take her to restaurants to eat, I used to take her to my house in New Jersey. Now, I

have not seen my daughter for over eight months. At this stage where cognitive development is very rapid, the damage that deprivation of fatherly contact has caused is unquantifiable. I used to speak with her a lot and make noises interactively, but my daughter's ability to verbally interact that way was markedly diminished after only a few weeks of spending minimal time with me¹⁸. I should be spending a lot of time with my daughter to at least interact verbally.

56. My wife has evidenced psychiatric and psychological problems, whereas the worst psychological problem I have is post-traumatic stress from my cancer as a child and my wife hitting me. If my wife snaps, if she kills herself and/or our daughter, you those who oversee the court system but did not listen to me will be to blame. My wife is a collapsed narcissist who deceives people. A manifest criminal is being chosen over an innocent man to protect a child, and no one thinks there will be consequences. Considering her ongoing volatility and history of committing domestic violence, the probability is very high that my wife will physically abuse our child. I have never committed an act of domestic violence in my life nor would I ever do so.

57. The legal system has had ample opportunity to limit the endangerment of my daughter, but instead the IDVC wants to put my daughter in mortal danger. When my wife physically abuses our daughter (it is not a question of 'if' but 'when'), the recklessness of NY State and the complaisance of the upper courts can be said to be blameworthy. Can any new ruling make up for the cognitive development in my daughter's brain that did not happen because she does not spend any time with her father? My daughter that I love would never get hurt by

¹⁸ Judge Dawson ordered supervised visitation that was limited to between 2 and 4 hours once a week from Januar-March of 2016. After playing and having fun during the entire first visit, my daughter generally just wanted me to hold her to my chest during the subsequent visits. While the time restriction was unpleasant at the time, I had no idea that the indignity of forced supervision would be followed up with the torture of complete alienation from my daughter.

me, I have never hurt her, and I am not even alleged to have hurt her (outside of the ravings of my wife). I love my daughter, I would NEVER hurt my daughter, and I worry about her constantly.

59. Among the other *inter alia* violations, my daughter's daycare has been advised against sending me the routine individualized emails that parents receive. A large component of my \$909 *pendente lite* payment is alleged to go to this daycare, yet the umbilicus between us has been cut for no discernible reason.

60. I have been denied involvement in my daughter's education by Ms. Zuccardy and the Court. According to Ms. Zuccardy, my wife wants me to have no contact whatsoever with my daughter. I have never been anything but a loving, caring, responsible father. My wife used to beat me in front of our daughter. She even hit me in the head on occasions when I was holding our infant daughter and when she was holding our infant daughter. Now, my wife wants to abuse me through the legal system. How can such abuse and parental alienation be condoned by the United States legal system?

Relief Sought

1. My divorce proceedings should be moved to a Court where they can be considered impartially OR the IDVC should be forced to cease violating my own and my daughter's constitutional rights.

2. New York State either needs to restructure the IDVC OR enhance the IDVC oversight and quality control procedures OR dissolve the IDVC system while ironing out the problems that let to the formation of the IDVC.

3. I should be granted full custody of my daughter. The Orders of Protection against me that name my daughter should be dismissed because they are baseless. My daughter's mother is a violent person with psychological problems.

4. The District Attorney's office should be precluded from colluding with Jill Zuccardy since she is not a party to the allegations. During a recent hearing, an expert witness testified that there is no evidence that links me to the selfsame electronic communications that Ms. Zuccardy had told the District Attorney's office were sent by me. As can be evidenced in email correspondences between Mr. Brostowin and the District Attorney's office, the incarceration alternative offer was rescinded because of these baseless allegations.

5. There is generally not enough time or space for Mr. Leavin to say everything that he wants to say, such as the fact that Ms. Zuccardy brings up information in violation of the New York State Family Court Act (as described above). Ms. Zuccardy should be restricted from doing so.

6. A proceeding to hold my wife accountable for her domestic abuse should have been initiated by Judge Dawson. Since it has not, a proceeding needs to be ordered in some forum to hold my wife accountable for the domestic violence she committed, the thousands of dollars of that I have had to pay for treatment, and my psychological trauma.

7. My wife should be enjoined from having me arrested on arbitrary pretenses. She has never been in danger, has actually threatened to kill me, has actually knocked me

unconscious by hitting me in the head, and I have never hurt her nor threatened her. I fear for my life and freedom every day that she is allowed to arbitrarily have me arrested.

8. Judge Dawson or the Court to which the civil divorce proceedings are re-assigned should be forced to acknowledge the evidenced fact that I am a victim of felony-level domestic violence. If there is doubt surrounding that topic, it needs to be discussed and regarded in court. The IDVC is supposed to be a safe haven for victims, not an instrument for abusers to protract torment such as it is in this case.

9. Concerning the template for the Temporary Order of Protection, New York State needs to modify their template to either remove the firearm forfeiture language OR include language describing the 14 day appeal time window after service of the order.

10. The IDVC is relying on judges to compartmentalize criminal and civil cases to maintain civil rights in criminal proceedings involving the same individuals WHILE SIMULTANEOUSLY inclusively regarding information from both types of proceedings involving the same individuals. The IDVC was created to avoid the pathologies of the New York State court system that had occurred due to the separate litigation of civil and criminal cases involving the same individuals, but even the advocates of the IDVC acknowledged the potential for new pathologies. Myself and my daughter are victims of those new pathologies. Everyone in this IDVC is susceptible to these same violations, both those enumerated and other *inter alia*. I ask that, until the slow iceberg of court reform remedies these pathologies, my criminal cases are either dismissed or moved to a different court for another disposition hearing.

11. A federal rule on parent-child rights needs to be developed. While the denial of contact between myself and my daughter is only legal in a New Jersey State Court in cases of

proven abuse, judges in New York State can suspend the parent-child relationship arbitrarily based on speculation and hearsay. A Parental Rights Doctrine has been proposed to provide federal guidance on these specific rights¹⁹.

12. The New York State courts need to be able to differentiate between the arenas where hearsay is admissible and arenas where hearsay is inadmissible. The commingling of civil and criminal procedural law in the IDVC has contaminated said differentiation. Should I move to another country or should I trust that constitutional protections might be upheld?

13. Explicit and implicit bias are demonstrable in the IDVC. Please protect me from my abuser and the bureaucratic hall-of-mirrors that threatens to imprison me.

14. Since I have not had any income for a year AND I have had to spend an average of \$300/month on treatment for my post-concussion disorder AND I have had to a tremendous amount of neurological rehabilitation, my *pendente lite* support amount should be reduced. My situation changed dramatically when I stopped making money in November of 2015 when my disorder became brutally debilitating. The *pendente lite* support amount of \$909 a month had been established two months earlier based on a worksheet that did not even accurately incorporate my deductible business expenses. My mother has been paying my *pendente lite* support out of her pension (she is a retired ninth grade English teacher), and the effect of this obligation on her is painful. It is about 25% of her income. I do not know if I will be ambushed

¹⁹Our mission is to protect children by empowering parents through adoption of the Parental Rights Amendment to the U.S. Constitution and through state laws supporting fundamental parental rights.

Our team works to preserve the right of every current and future American child to be raised and represented by parents who love them, and not by disconnected government bureaucrats.”

-from <http://www.parentalrights.org/about>

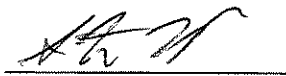
and incarcerated tomorrow, and I do not know what to expect out of the existing criminal cases that will not be re-considered until January 27, 2017. This uncertainty, fear, and economic strain on my parents all amount to it being a necessity that my *pendente lite* support obligation be retroactively modified back to the date when my post-concussion disorder debilitated me into destitution. If my father does not make enough money next month, I will not be able to get the \$909 from my mother to give to my wife. I will, then, be jailed for the deficiency. My wife beat me over the head, the resultant disorder worsened to the point where I could barely function, Judge Dawson has seen the corroborating medical records, and I have not been allowed to interact with my daughter for over eight months (the most debilitating torment of all). How can I reasonably be expected to continue paying \$909 a month when I owe over \$50,000 now in revolving marital debt that I have not serviced since January of 2016, I owe Mr. Leavin over \$5,777, I am more than \$500 behind on paying my student loans, I have had no income for over a year, and I have no prospect of income. Who could function alienated from both her child and her dog for over eight months? The *pendente lite* amount ought to be adjusted based on my most recent net income of approximately \$8,000 in 2015 rather than continuing to be based on my gross income from 2014 (a number that did not net out my business expenses and so was inflated to begin with). My *pendente lite* support should be reduced to \$300/month and that reduction should be applied retroactively back to December of 2015 when my income ceased.

15. If no just solution can be enforced in the New York courts, the family case should be removed to New Jersey. I live in New Jersey. The violation of named and *inter alia* rights that has occurred in the IDVC is atrocious.

I certify that all of the information contained in the brief is true and accurate to the best of my knowledge.

Date:

12/5/2016

A handwritten signature in black ink, appearing to read "SW", is written over a horizontal line.

Steven Whelan

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Steven Warren Whelan

(In the space above enter the full name(s) of the plaintiff(s).)

- against -

Tandra L. Dawson, in her
personal capacity

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, address and telephone number. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name

Street Address

County, City

State & Zip Code

Telephone Number

Steven Warren Whelan
8 Gunia St.
Southern Middlesex County, East Brunswick
New Jersey 08816
732-257-3971

RECEIVED

MAY 24 2016

AT 8:30
WILLIAM T. WALSH
CLERK

16-2948 (PGS/LHG)

COMPLAINT

Jury Trial: ☐ Yes ☒ No

(check one)

- B. List all defendants. You should state the full name of the defendants, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant can be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1

Name Tandra L. Dawson
 Street Address 100 Centre St., 1604
 County, City New York, New York
 State & Zip Code New York 10013

Defendant No. 2

Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____

Defendant No. 3

Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____

Defendant No. 4

Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. There are four types of cases that can be heard in federal court: 1) Federal Question - Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case; 2) Diversity of Citizenship - Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case; 3) U.S. Government Plaintiff; and 4) U.S. Government Defendant.

- A. What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal Questions ☐ Diversity of Citizenship
☐ U.S. Government Plaintiff ☒ U.S. Government Defendant

- B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? 14th Amendment and 5th Amendment rights

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party? -

III. Statement of Claim:

A. Where did the events giving rise to your claim(s) occur?

100 Centre St., Room 1604
New York, NY 10013

B. What date and approximate time did the events giving rise to your claim(s) occur?

Initial order denying Plaintiff the right to visitation with his daughter was declared on April 1, 2016 around noon, and then affirmed to continue on April 26, 2016 around 10:30 A. M. Failure to justify the orders with a Due Process hearing has been ongoing since. This was preceded by an order to limit my visitation to CFS supervised visits only on January 12, 2015.

C. Facts:

1. My divorce proceedings were move to the Court of Defendant Judge Tandra Dawson in January 2016. Defendant ordered the suspension of my right to visit with my one year old daughter, [REDACTED], on April 1, 2016. Jill Zuccardy, who represents my wife, Meghan Lockard, in our divorce proceedings requested that the Defendant, order said suspension. The proceedings were moved to the Defendant's Court because Ms. Lockard had obtained an Ex Parte Temporary Order of Protection in New York Family Court last year, and she has made multiple claims to police that I have violated the TOPs. I never committed any violence or threatened any violence towards Ms. Lockard, nor am I accused of doing so. I never endangered or hurt my daughter nor are there any proceedings or investigations related to allegations that I have endangered or hurt my daughter.

2. During the week preceding the April 1, 2016 hearing, Ms. Lockard's associates at her employing university received various emails with links to perverse literary erotica seemingly from Ms. Lockard. Ms. Lockard denies the emails were from her, and according to her

university's investigation the messages were not from Ms. Lockard's actual email account but only appeared to be.

3. Thereupon, without actual evidence, Ms. Zuccardy and Ms. Lockard represented to the Defendant that I had sent said emails. They claimed that nebulous circumstantial evidence point to me as the sender. Judge Dawson then said on the record that, due to how "serious" the allegations are, she would suspend my visits with my daughter until the District Attorney disproved the allegation that I had sent them.

4. The Defendant has been notified that the District Attorney is not even charging me with these allegations. Yet, she denied a motion to restore visitation on April 26, 2016. Her Court told my lawyer in the divorce proceedings, Paul Leavin, on the phone on May 23, 2016, that they do not know when they will get a chance to review additional motions that were made on May 10, 2016.

5. Starting on January 12, 2016, the Defendant had ordered Comprehensive Family Services supervised visits between myself and my daughter. This was on her first exposure to our proceedings after several months of proceedings in Judge Lori Sattler's Court. These visits went on without incident until March 13, 2016, which is the last time Ms. Lockard chose to bring my daughter prior to making the motions to suspend visitation on April 1, 2016. I have not seen my daughter since March 13, 2016, although I have never done anything to endanger nor hurt her.

6. I have no ACS indication against me and I have never endangered my daughter. My wife and I, since her post-partem psychotic break in April of 2015, have been actively engaged with Forestdale, Inc., which is a preventive services agency. I had been falsely accused of being intoxicated while taking care of my daughter, and ACS eventually determined that the accusation was unfounded. The Defendant also factored the false accusations, which have been determined to have been unfounded, into her decision-making.

7. An ACS investigation against my wife in January was similarly shown to be unfounded, and although it was based on a complaint I made in good faith Judge Dawson has held the complaint against me. Those most familiar with the case, the SVU detective and the ACS case worker at the time, Carol Warner, both told me they thought I did the right thing in raising my concerns.

8. Various information verifying my fitness as a parent is contained in the divorce proceeding records from ACS, Forestdale, and CFS. I have never endangered, hurt, threatened to hurt, or been accused of hurting my daughter. Deyfus came to see the home where I reside in New Jersey and found it perfectly suitable for visits with my daughter. My daughter visited here many times with me and without incident before, on January 12, 2016, Ms. Zuccardy argued to the Defendant's Court that it was an unsafe environment. It was at that point that the supervised CFS visits and the Deyfus home investigation were ordered.

8. There is no justification that has received the scrutiny of a Due Process proceeding for suspension of my relationship with my daughter. There is no clear guidance from the Defendant as to what the danger is to my daughter nor is there clear guidance about what can be done to allay concerns about the nebulous danger. CFS reported that I parent well, and Deyfus reported that my home is safe.

9. Dr. David Gerard of Mental Health Services of New York, after being ordered at the April 1 hearing to assess Ms. Lockard and I, supplied a report to the Court. His report concludes that visits should remain suspended based on the same allegations about explicit emails and TOP violations, none of which have received a Due Process hearing despite months having passed. Our next court date in the Defendant's Court is not until June 23, 2016. My attorney, Mr. Leavin, requested at the April 16, 2016 hearing that we be given an earlier date for my sake but was denied by the Defendant.

IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. _____

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation.

I want routine visits with my daughter, preferably weekends from Friday evening until I drop her off at daycare Monday morning. I also would like to have my daycare visits restored. Make-up visitation time for the months of not seeing my daughter would also be appreciated.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 24 day of May, 2016

Signature of Plaintiff

Mailing Address

8 Gunia St.
East Brunswick, NJ 08816

Telephone Number

908-420-1308

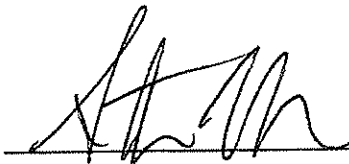
Fax Number (if you have one)

E-mail Address

whelan.s@gmail.com

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint.

Signature of Plaintiff:




7

CERTIFICATION OF SERVICE

I, Steven Whelan, certify that a copy of my motion was served
(Name of Moving Party)
by Mail on May 24, 2016 upon:
(Mail, Personal Service, etc.) (Date)

Tandra L. Dawson
(Name of Opposing Party)
100 Centre St., 1604
New York, NY 10013

(Address of Opposing Party)


Name (Signature)